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Secretary

Federal Communications Commission

445 12th Street, SW, Room TW-B204

Washington, D.C. 20554

Re: CC Docket No. 96-45
Federal-State Joint Board on Universal Service

Dear Ms. Salas:

On behalf of Roseville Telephone Company, transmitted herewith are the original and 11 copies of its Petition for Reconsideration of the Ninth Report and Order in the above-referenced docket.

Please date stamp and return the additional copy enclosed herewith.

If further information is necessary, please contact me.

Respectfully submitted,

Paul J. Feldman

Paul J. Feldman

Counsel for Roseville Telephone Company

PJF:deb

Enclosures

cc: Mr. Greg Gierczak (w/encl.)

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

PETITION FOR RECONSIDERATION

Roseville Telephone Company ("Roseville") hereby petitions the Commission for reconsideration of that portion of the Ninth Report & Order and Eighteenth Order on Reconsideration in the above-captioned proceeding¹ that includes Long Term Support ("LTS") as part of the "hold-harmless" support which is proposed to be eliminated after an interim period. Roseville believes that the FCC inadvertently erred in including LTS in the federal support to be eliminated: LTS is a support mechanism for interstate costs which the *Ninth Report & Order* improperly included in the revamping of intrastate support mechanisms. The phase-out and/or elimination of these LTS funds would have serious and unintended consequences not only on Roseville, but on interexchange carriers and other LECs, including rural LECs who participate in the NECA Common Line Pool. Thus, LTS should not be phased out or eliminated until a holistic solution to the pricing of interstate common line costs for NECA pooling companies is developed and implemented.

¹ FCC 99-306, released November 2, 1999 (hereinafter "*Ninth Report & Order*").

I. Introduction

Roseville is an incumbent local exchange carrier ("ILEC") serving subscribers in the Roseville, California area, and it has been providing high quality communications services to its subscribers for over 80 years. Roseville currently serves approximately 128,000 access lines. As Roseville's access line count places it a mere 28,000 lines above the criterion in the 1996 Telecommunications Act used to define "rural telephone company" for certain regulatory purposes (but not for universal service), Roseville is among the smallest of the "non-rural" LECs ("NRLECs"). To the extent that larger companies can use their size to create greater cost savings, smaller companies like Roseville are in fact closer to rural companies than to the giant NRLECs with which Roseville is being categorized, for the purposes of federal high cost support. For example, while a company like Roseville may purchase one switch at a time from a manufacturer, a large company like a Bell Operating Company may purchase hundreds of switches at a time, and thus receive significant cost savings on a per-switch basis. Indeed, all company plant and operations are subject to these cost differences.

In the Seventh Report & Order in this proceeding, the Commission followed the recommendation of the Federal-State Joint Board, and included a hold-harmless provision in the new federal high-cost support mechanism to prevent "substantial reductions of federal support and potentially significant rate increases." 14 FCC Rcd 8078, 8111 (1999). In the Notice of Proposed Rulemaking portion of that document, the Commission sought comments as to whether such hold-harmless funds should be distributed on a carrier-by-carrier or a state-by-state basis, and on the relationship to

portability of support. *Id.* at pages 8133-36. Nothing in either the Report and Order or the NPRM discussed the contents of the support subject to the hold-harmless provision. Thus, Roseville, like other parties, was surprised when the *Ninth Report & Order* stated that “[i]nterim hold-harmless support also shall include LTS under section 54.303 of our rules for those non-rural carriers that would otherwise be eligible for LTS if we had continued to provide support under our existing high-cost support mechanism.” FCC 99-306 at para. 78. While Roseville was gratified that the Commission recognized the importance of LTS, it was surprised to see that LTS was to be included in the hold-harmless provision in the first place: LTS is used for recovery of interstate costs and should not be subject to phase-out provisions of the FCC’s new explicit support mechanism which, by design, recovers only intrastate costs.

II. LTS Should Not be Included in The Hold-Harmless Provisions of the New High-Cost Support Mechanism.

In describing its new high-cost support plan, the FCC states the following:

The support determined by the mechanism described in this *Order* will replace the support that non-rural carriers currently receive from the existing high-cost fund, which provides support for *intrastate* rates and services.² (emphasis added).

The Universal Service Fund (“USF”), as described in Part 36 of the FCC Rules, is precisely such a support mechanism. To compute USF funding, a LEC’s embedded loop costs within a study area are identified and compared to the nationwide average cost for all LECs. Carriers whose costs exceed the national average by defined percentages are allowed to remove portions of these costs from their intrastate revenue

² *Ninth Report & Order* at para. 2.

requirement. These costs are instead recovered in the interstate jurisdiction through the USF. In this way the federal jurisdiction helps the state regulator to establish local rates that are more affordable.

LTS functions differently, however. It is totally interstate in its operation. When interstate access charges were established in the mid -1980s, the interstate loop costs of all LECs were averaged through the NECA Common Line Pool. In this way, interstate Common Line charges for carriers in high-cost areas benefited from implicit support from the lower cost areas contained in the average. Because of this support, however, the largest carriers (the RBOCs and GTE) sought to get out of the pool. Not only did they subsidize the smaller LECs, but they were also, in effect, subsidizing each other. As a result of a negotiated settlement, ultimately codified in Parts 69 and 54 of the FCC's rules, those carriers who chose to remain in the Common Line Pool would charge an interstate Common Line rate that was the same level as if all LECs were still in the pool. Those carriers who chose to leave the pool would charge Common Line rates based on their own costs, but would also contribute to the LTS fund that would make up the difference between the revenue generated by the NECA Pool rate and the NECA Pool revenue requirement. Thus, carriers who chose to remain in the Common Line Pool would recover their interstate Common Line revenue requirement through a combination of revenues from subscriber line charges, the Pool rate, and payments from the LTS fund.

Roseville believes that the FCC inadvertently erred in including the LTS funds within the hold-harmless and phase-out provisions of its new explicit high-cost support

mechanism. The problem with doing so is that it subjects LTS to a proposed phase-out, which absent other changes, would be totally inappropriate, and harmful to a wide variety of carriers, as well as end users.

First, as discussed above, LTS recovers only interstate revenue requirements. The new explicit high-cost mechanism is designed to cover only intrastate costs. The interstate portions of the forward-looking cost are specifically removed prior to the calculation of support under the new mechanism. As stated in the *Ninth Report and Order*.

Our current separations rules allow carriers to recover 25 percent of their book loop costs through interstate rates. Carriers also recover 15 percent of their book port costs, on average, through interstate rates, and 100 percent of the federal LNP costs through the federal LNP cost recovery mechanism. We therefore conclude that the forward-looking mechanism will calculate support based on 75 percent of forward-looking loop costs, 85 percent of forward-looking port costs, and 0 percent of forward-looking LNP costs....³

It would be totally inappropriate, indeed it would be confiscatory, to eliminate interstate LTS payments as part of implementing the new intrastate explicit support mechanism. To do so would deprive “non-rural” LECs who participate in the NECA Pool the ability to recover their legitimate interstate common line revenue requirements. LTS represents a portion of the 25% of book loop costs which the separations rules allow to be recovered in interstate rates. The new explicit high-cost support mechanism specifically excludes these costs. Before LTS can be removed there must be a comprehensive revision in the rules by which “non-rural” LECs that are in the NECA Pool recover their interstate common line costs.

³ *Id.* at para. 63.

A second reason for not phasing out LTS is that to do so would have unintended consequences on other parties. Of the carriers currently classified as “non-rural”, only three, Roseville, North State Telephone Company, and the Puerto Rico Telephone Company participate in the NECA Common Line Pool and receive LTS. When one party exits the pool it has an impact on other Pool participants, including many rural LECs, through re-computation of the Pool common line rate. If LTS were to be eliminated, NECA would be forced to file significant increases in Common Line rates on behalf of the members of the Pool. This would increase the rate disparity between large non-pooling LECs and members of the NECA Common Line Pool. This in turn would threaten the requirements of the 1996 Act for nationwide averaged long distance rates.⁴

In Comments filed on December 1, 1999 in response to the Commission’s November 3, 1999 Public Notice on the Interim Hold-Harmless Provisions, NECA demonstrated the significant impact of the Commission’s erroneous inclusion of LTS in the Hold-Harmless mechanism. NECA quantified the potential increase in the Pool CCL rate as “up to 42%”.⁵ NECA’s estimate should be given great weight, since under the FCC’s rules NECA administers the current USF and LTS mechanisms.⁶

⁴ Section 254(g) of the Communications Act, as amended by the Telecommunications Act of 1996.

⁵ NECA Comments at page 5.

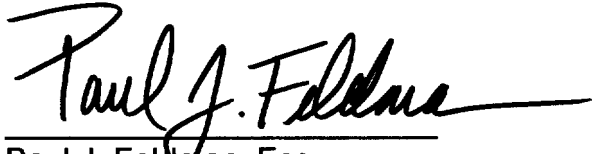
⁶ Section 69.60

III. Conclusion

LTS is a support mechanism for interstate costs. Its inclusion in the revamping of intrastate support mechanisms is an unfortunate mistake that must be rectified. The ultimate disposition of LTS must be addressed by the FCC through a holistic and comprehensive review of interstate access pricing for companies which participate in the NECA pools.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

A handwritten signature in black ink, appearing to read "Paul J. Feldman", written over a horizontal line.

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December 30, 1999